



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

SEP 28 2007

REPLY TO THE ATTENTION OF

(AE-17J)

**CERTIFIED MAIL**

**RETURN RECEIPT REQUESTED**

Mr. Thomas W. Dimond  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, Illinois 60606

Dear Mr. Dimond:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves Greif Industrial Packaging & Services, LLC and Greif, Inc. CAA Docket No. CAA-05-2007-0035. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on SEP 28 2007.

Pursuant to Paragraph 24 of the CAFO, Greif Industrial Packaging & Services, LLC and Greif, Inc. must pay the \$120,000 civil penalty within 30 days of the date the CAFO was filed,

SEP 28 2007. The check must display the case docket number, CAA-05-2007-0035, and the billing document number, 2750703A035.

Please direct any questions regarding this case to Mary McAuliffe, Associate Regional Counsel, (312) 886-6237.

Sincerely yours,

Brent Marable, Chief

Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

Cc: Ray Pilapil, Manager  
Bureau of Air, Compliance and Enforcement Section  
Illinois Environmental Protection Agency

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Protecting the environment is everyone's responsibility.

Help EPA fight pollution by reporting possible harmful environmental activity.  
To do so, visit EPA's website at <http://www.epa.gov/compliance/complaints9/index.html>

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:** ) **Docket No. CAA-05-2007-0035**  
 )  
Greif Industrial Packaging & ) **Proceeding to Assess a Civil Penalty under Section**  
Services, LLC and Greif, Inc. ) **113(d) of the Clean Air Act, 42 U.S.C. § 7413(d)**  
Alsip, Illinois )  
 )  
**Respondents.** )

**Consent Agreement and Final Order**

**Preliminary Statement**

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act ("the Act"), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules") as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency, ("U.S. EPA"), Region 5.

3. Respondents are Greif Industrial Packaging & Services, LLC (f/k/a Greif Containers, Inc. f/k/a Van Leer Containers, Inc.), a corporation doing business in Illinois, and Greif, Inc. (f/k/a Greif Bros. Corporation), a corporation doing business in Ohio.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order ("CAFO"). 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondents consent to entry of this CAFO and the assessment of the specified civil penalty, and agree to comply with the terms of the CAFO.

#### **Jurisdiction and Waiver of Right to Hearing**

7. Respondents admit the jurisdictional allegations in this CAFO and neither admit nor deny the factual allegations in this CAFO.

8. Respondents waive their right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest in this proceeding the allegations in this CAFO, and their right to appeal this CAFO.

#### **Statutory and Regulatory Background**

9. 40 C.F.R. Part 63, Subpart Q applies to industrial process cooling towers.

10. 40 C.F.R. § 63.400(a) applies to all new and existing industrial process cooling towers that are operated with chromium-based water treatment chemicals on or after September 8, 1994, and are either major sources or are integral parts of facilities that are major sources as defined in 40 C.F.R. § 63.401.

11. 40 C.F.R. § 63.401 defines “industrial process cooling tower”, also written as “IPCT”, as any cooling tower that is used to remove heat that is produced as an output of a chemical or industrial process(es), as well as any cooling tower that cools industrial processes in combination with any heating, ventilation, or air conditioning system.

12. 40 C.F.R. § 63.401 defines “chromium-based water treatment chemicals” as any combination of chemical substances containing chromium used to treat water.

13. 40 C.F.R. § 63.401 defines “major source” as any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, considering controls, in the aggregate, 10 tons per year or more of any hazardous air pollutant (“HAP”) or 25 tons per year or more of any combination of HAPs.

14. 40 C.F.R. § 63.402 states that no owner or operator of an industrial process cooling tower shall use chromium-based water treatment chemicals in any affected industrial process cooling tower.

15. 40 C.F.R. § 63.403(a) states that for existing industrial process cooling towers, the compliance date shall be 18 months after September 8, 1994.

#### **Enforcement Provisions**

16. The Administrator of U.S. EPA (“the Administrator”) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for, among other things, violations of Sections 111 and 112 of the Act that occurred from January 31, 1997 through March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19.

17. Section 113(d)(1) limits the Administrator’s authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

18. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

#### **Factual Allegations**

19. At all times relevant to this CAFO, Respondent Greif Industrial Packaging & Services, LLC owned and operated a metal drums production plant at 4300 W. 130<sup>th</sup> Street, Alsip, Illinois. From 2001 to November 2004, Greif, Inc., was identified as the permittee on the plant's Clean Air Act Program Permit (i.e., Title V permit) issued by the Illinois Environmental Protection Agency. The plant operates two industrial process cooling towers. One was constructed prior to 1994; the other was constructed in 2002.

20. Greif Industrial Packaging & Services, LLC purchased corrosion inhibitors for the two industrial process cooling towers from H-O-H Chemicals, Incorporated. The material safety data sheets for these corrosion inhibitors listed sodium chromate and sodium dichromate, which are chromium-based water treatment chemicals.

21. The plant is presently permitted as a major source of hazardous air pollutants as defined at 40 C.F.R. § 63.401 because it has a potential to emit of 10 tons per year or more of a single HAP or 25 tons per year or more of any combination of HAPs.

22. Greif Industrial Packaging & Services, LLC used chromium-based water treatment chemicals in the industrial process cooling towers, which is in violation of 40 C.F.R. Part 63, Subpart Q.

### **Civil Penalty**

23. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), and the facts of this case, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$120,000.

24. Respondents must pay the \$120,000 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

25. Respondents must send the check to:

U.S. EPA, Region 5  
P.O. Box 37153  
Pittsburgh, PA 15251-7531

26. A transmittal letter, stating Respondents' names, complete addresses, the case docket number, and the billing document number must accompany the payment. Respondents must write the case docket number and the billing document number on the face of the check.

Respondents must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-13J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)  
Air Enforcement and Compliance Assurance Branch  
Air and Radiation Division  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511

Mary McAuliffe, (C-14J)  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Blvd.  
Chicago, Illinois 60604-3511

27. This civil penalty is not deductible for federal tax purposes.

28. If Respondents do not pay timely the civil penalty, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

29. Pursuant to 31 C.F.R. § 901.9, Respondents must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Respondents will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. Respondents will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

#### **Final Statement**

30. This CAFO resolves only Respondents' liability for federal civil penalties for the violations set forth in this CAFO.

31. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

32. This CAFO does not affect Respondents' responsibilities to comply with the Act and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 30, above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by Complainant.

33. Respondents certify that they are complying fully with 40 C.F.R. Part 63, Subpart Q.

34. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine Respondents' "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

35. The terms of this CAFO bind Respondents, and their successors, and assigns.

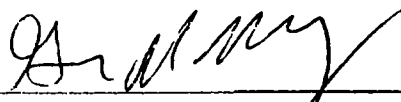
36. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms

37. Each party agrees to bear its own costs and attorneys' fees in this action.

38. This CAFO constitutes the entire agreement between the parties.

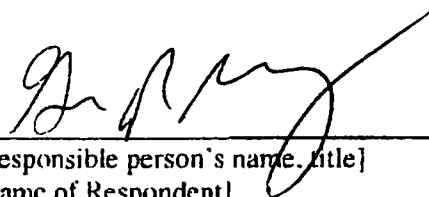
**Greif Industrial Packaging & Services, LLC, Respondent**

9/27/07  
Date

  
[Responsible person's name, title]  
[Name of Respondent]  
Gary R. Martz  
Senior Vice President

**Greif, Inc., Respondent**

9/27/07  
Date

  
[Responsible person's name, title]  
[Name of Respondent]  
Gary R. Martz  
Senior Vice President

**CAA-05-2007-0035**



**CONSENT AGREEMENT AND FINAL ORDER**

**In the Matter of Greif Industrial Packaging & Services, LLC and Greif, Inc.**

**Docket No. CAA-05-2007-0035**

**United States Environmental Protection Agency, Complainant**

9/28/07  
Date

Stephen Rothblatt  
Stephen Rothblatt, Director  
Air and Radiation Division  
U.S. Environmental Protection  
Agency, Region 5 (A-18J)

**CONSENT AGREEMENT AND FINAL ORDER**

**In the Matter of Greif Industrial Packaging & Services, LLC and Greif, Inc.**

**Docket No. CAA-05-2007-0035**

**Final Order**

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

9-28-07

*for*

*M. A. Gade*

Mary A. Gade  
Regional Administrator  
U.S. Environmental Protection  
Agency, Region 5

RECEIVED  
SEP 28 2007  
REGIONAL HEARING CLERK

In the Matter of Greif Industrial Packaging & Services, LLC and Greif, Inc.

Docket No: **CAA-05-2007-0035**

CERTIFICATE OF MAILING

I, Betty Williams, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2007-0035 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Greif Industrial Packaging & Services, LLC and Greif, Inc. Counsel by placing them in the custody of the United States Postal Service addressed as follows:

Mr. Thomas W. Dimond  
Mayer Brown LLP  
71 South Wacker Drive  
Chicago, Illinois 60606

I also certify that a copy of the CAFO was sent by first-class mail to:

Ray Pilapil, Manager  
Bureau of Air, Compliance and Enforcement Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Springfield, Illinois 62706

on the 28<sup>th</sup> day of September 2007.

for Sara Bauman  
Betty Williams, Secretary  
AECAS (IL/IN)

CERTIFIED MAIL RECEIPT NUMBER:

7001 0320 0006 0185 7309